

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

AFRICA K. EVANS,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendant.

Case No. 19-CV-212-JPS

ORDER

Plaintiff filed this action in Milwaukee County small claims court on January 31, 2019. (Docket #1-1). She alleges that a postal worker fell into her car and dented it. *Id.* at 2. Defendant removed the action on February 11, 2019, on the grounds that it is a federal agency. (Docket #1); 28 U.S.C. § 1442. Four days later, Defendant filed a motion to dismiss the case. (Docket #4). Defendant argues that dismissal is appropriate because the Court lacks subject matter jurisdiction, Plaintiff failed to exhaust her administrative remedies, and service was improper. (Docket #5).

Plaintiff has not responded to the motion and the time in which to do so has expired. Civ. L. R. 7(b). The Court will, therefore, grant the motion. *Id.* 7(d). The Court will also independently impose a sanction of dismissal against Plaintiff for her failure to attend the scheduling conference set for March 8, 2019. (Docket #3, #9, and #10); Civ. L. R. 41(c).¹

¹Defendant filed a motion to stay the scheduling conference while its motion to dismiss was pending. (Docket #8). As the Court proceeded with the conference anyway, the motion will now be denied as moot.

For both of these reasons, this action will be dismissed without prejudice.²

Accordingly,

IT IS ORDERED that Defendant's motion to dismiss (Docket #4) be and the same is hereby **GRANTED**;

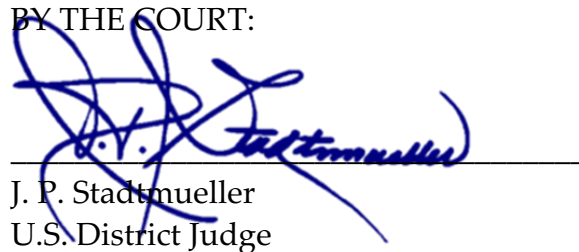
IT IS FURTHER ORDERED that Defendant's motion to stay (Docket #8) be and the same is hereby **DENIED as moot**; and

IT IS FURTHER ORDERED that this action be and the same is hereby **DISMISSED without prejudice**.

The Clerk of the Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 14th day of March, 2019.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge

²Defendant's motion does not state whether it seeks dismissal with or without prejudice. (Docket #4 and #5). Further, none of the bases on which Defendant seeks dismissal would operate as an adjudication of the case on its merits. Thus, dismissal without prejudice is the only appropriate course.